IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.20311 of 2006
DATE OF DECISION: December 21, 2006

Ved Parkash

….Petitioner

VERSUS

Chief Administrator and another

….

Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE M.M.S.BEDI

PRESENT: Shri Ashok Jindal, Advocate for the petitioner.

Viney Mittal,J.(Oral).

The petitioner has challenged the orders whereby the shop in question belonging to the petitioner has been ordered to be resumed on account of the unauthroised misuser of the same. The petitioner has pleaded that the shop in question had been ordered to be resumed on account of the fact that the petitioner was carrying on a trade in the said shop, other than for which the same had been allotted. It has also been pleaded by the petitioner that subsequently various market associations of the city had been representations before the Administration to permit them to carry on any trade and commercial activity in the shops and in pursuance to be said representations, a revised policy dated February 24, 2006 Annexure P.10 had been framed. The relevant portion of the said policy read as under:

> "In partial modification of Chandigarh Administration, Finance Department order dated 25.6.2002 issued vide endst. Bearing No.28/8/3-UTFI(3)-2002/6479, dated

17.7.2002, and in exercise of powers conferred by second proviso to sub rule (3) of Rule 9 of the Chandigarh (Sale

of Sites and Buildings) Rules, 1960 and sub rule (ii) of Rule 17 of the Chandigarh Lease Hold of Sites and Buildings Rules, 1973 read with Sections 3 and 22 of the Capital of Punjab (Development and Regulation),\ Act, 1952, the Administrator, Union Territory, Chandigarh is pleased to allow all allottees of commercial sites/premises in Chandigarh except Industrial Sites in Industrial Area, Phase I & II, Chandigarh to pursue any trade mentioned in Schedule II i.e. (A) New General Trade and (B) New Special Trade Category, appended to the aforesaid rules without applying for conversion of trade and without paying conversion fee subject to the following conditions:

The petitioner has further pleaded that although after the revised policy, the occupiers of various commercial sites were free to use the said shops for any trade activities but keeping in view the fact that the resumption order had been passed qua the petitioner, punitive action was being taken against him, and in any case, the resumption order was liable to be withdrawn keeping in view the revised policy. The petitioner has also challenged the orders passed in appeal/revision by the competent authorities.

Keeping in view the facts and circumstances of the case and also the fact that a revised policy dated February 24, 2006 (Annexure P.10) has been framed by the Administration, we dispose of the present petition with a liberty to the petitioner to file a detailed

and comprehensive representation before the Estate Officer, UT, Chandigarh, respondent No.2. We further direct the Estate Officer, respondent No.2 to consider the claim made by the petitioner and in case the trading activities being carried out by the petitioner are covered by the revised policy dated February 24, 2006, then the resumption order passed against the petitioner shall be treated as nonest. As a result thereof, the appellate/revisional orders passed qua the petitioner shall also be treated to be non operative. The petitioner would be at liberty to file the aforesaid representation within a period of 4 weeks from the date a certified copy of the order is received and thereafter the Estate Officer, respondent No.2 shall take a final decision, within a period of four months after affording an opportunity of hearing to the petitioner or his authorised representative, by passing a detailed and speaking order.

Till the matter is finally decided, the petitioner shall neither be evicted from the premises in question nor any coercive process shall be initiated against him.

Present petition is disposed of accordingly.

A copy of the order be given dasti on payment of usual charges.

(Viney Mittal)
Judge

December 21, 2006 (M.M.S. Bedi)
KD Judge